

SCHNEIDER WALLACE
COTTRELL KONECKY LLP
Michael C. McKay (SBN 023354)
8501 North Scottsdale Road, Suite 270
Scottsdale, Arizona 85253
Telephone: (480) 428-0145
Facsimile: (866) 505-8036
mmckay@schneiderwallace.com

ROBBINS ARROYO LLP
BRIAN J. ROBBINS
brobbins@robbinsarroyo.com
STEPHEN J. ODDO
soddo@robbinsarroyo.com
EDWARD B. GERARD
egerard@robbinsarroyo.com
JUSTIN D. RIEGER
jrieger@robbinsarroyo.com
600 B Street, Suite 1900
San Diego, CA 92101
Telephone: (619) 525-3990
Facsimile: (619) 525-3991

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA
PHOENIX DIVISION

GARY WUNSCH, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

COLE REAL ESTATE INVESTMENTS,
INC., CHRISTOPHER H. COLE,
THOMAS A. ANDRUSKEVICH, MARC
T. NEMER, SCOTT P. SEALY, SR.,
LEONARD W. WOOD, AMERICAN
REALTY CAPITAL PROPERTIES, INC.,
and CLARK ACQUISITION, LLC,

Defendants.

Case No.: 2:13-cv-02186-PHX-NVW

NOTICE OF VOLUNTARY DISMISSAL
WITH PREJUDICE PURSUANT TO RULE
41(a)(1)(A)(i) OF THE FEDERAL RULES
OF CIVIL PROCEDURE

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 WHEREAS, plaintiff Gary Wunsch ("Plaintiff"), on behalf of himself and all others
3 similarly situated, filed the Class Action Complaint against Cole Real Estate Investments,
4 Inc., Christopher H. Cole, Thomas A. Andruskevich, Marc T. Nemer, Scott P. Sealy, Sr.,
5 Leonard W. Wood, American Realty Capital Properties, Inc., and Clark Acquisition, LLC
6 on October 25, 2013 (the "Action") (Document No. 1) as subsequently amended on
7 December 3, 2013 (the "Complaint") (Document No. 20);

8 WHEREAS, on February 14, 2014, the Court stayed all further proceedings in
9 Plaintiff's Action in light of the proposed settlement of the related action pending in the
10 Circuit Court for Baltimore City Maryland (the "Maryland Action") and instructed the
11 parties to provide updated status reports to the Court every thirty days (Document No. 53);

12 WHEREAS, on January 13, 2015, the court in the Maryland Action approved the
13 proposed settlement, extinguishing Plaintiff's claims in this Action; and

14 WHEREAS, no defendant in this Action has answered the Complaint or filed a
15 motion for summary judgment.

16 NOW, THEREFORE, NOTICE IS HEREBY GIVEN that, pursuant to Rule
17 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, Plaintiff voluntarily dismisses the
18 Action, and all claims asserted therein against each and every one of the defendants, with
19 prejudice, and with each side to bear their own costs.

20 Dated: January 21, 2015

ROBBINS ARROYO LLP
BRIAN J. ROBBINS
STEPHEN J. ODDO
EDWARD B. GERARD
JUSTIN D. RIEGER

23 s/ Stephen J. Oddo
24 STEPHEN J. ODDO

25 600 B Street, Suite 1900
26 San Diego, CA 92101
27 Telephone: (619) 525-3990
28 Facsimile: (619) 525-3991
brobbins@robbinsarroyo.com
soddo@robbinsarroyo.com
egerard@robbinsarroyo.com

jrieger@robbinsarroyo.com

Lead Counsel and Counsel for Plaintiff Gary Wunsch

SCHNEIDER WALLACE
COTTRELL KONECKY LLP
MICHAEL C. MCKAY
8501 North Scottsdale Road, Suite 270
Scottsdale, AZ 85253
Telephone: (480) 428-0141
Facsimile: (866) 505-8036
mmckay@schneiderwallace.com

Liaison Counsel and Counsel for Plaintiff Gary Wunsch

998853

CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2015, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

William J. Maledon
OSBORN MALEDON, P.A.
2929 North Central Avenue, 21st Floor
Phoenix, AZ 85012
Telephone: (602) 640-9000
Facsimile: (602) 640-9050
wmaledon@omlaw.com

Jessica Stella Marx
DUANE MORRIS LLP
750 B Street, Suite 2900
San Diego, CA 92101
Telephone: (619) 744-2200
Facsimile: (619) 744-2201
jsmarx@duanemorris.com

William Savitt
Andrew J. Cheung
S. Christopher Szczerban
Adam S. Hobson
WACHTELL, LIPTON, ROSEN & KATZ
51 West 52nd Street
New York, NY 10019
Telephone: (212) 403-1329
Facsimile: (212) 403-2329
wdsavitt@wlrk.com
ajhcheung@wlrk.com
scszczerban@wlrk.com
ahobson@wlrk.com

Rebecca M. Lamberth
DUANE MORRIS LLP
1075 Peachtree Street NE, Suite 2000
Atlanta, GA 30309
Telephone: (404) 253-6961
Facsimile: (404) 253-6901
rmlamberth@duanemorris.com

*Counsel for defendants American Realty
Capital Properties, Inc., and Clark
Acquisition, LLC*

*Counsel for defendants Cole Real Estate
Investments, Inc., Christopher H. Cole, Marc
T. Nemer, Thomas A. Andruskevich, Scott P.
Sealy, Sr., and Leonard W. Wood*

Donald W. Bivens
Andrew C. Stone
SNELL & WILMER LLP
One Arizona Center
400 East Van Buren Street
Suite 1900
Phoenix, AZ 85004
Telephone: (602) 382-6000
Facsimile: (602) 382-6070

John K. Hardiman
Jonathan L. Shapiro
Mimi M.D. Marziani
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, NY 10004
Telephone: (212) 558-4000
Facsimile: (212) 558-3588
hardimanj@sullcrom.com

1 shapirojl@sullcrom.com
2 marzianim@sullcrom.com

3 *Counsel for defendants Cole Real Estate*
4 *Investments, Inc., Christopher H. Cole, and*
5 *Marc T. Nemer*

6 s/ Stephen J. Oddo

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STEPHEN J. ODDO